

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: City of Sanford, Seminole County and Seminole County School Board Wholesale Water, Wastewater and Reclaim Water Service Agreement

DEPARTMENT: Environmental Services

DIVISION: Business Office

AUTHORIZED BY: Andrew Neff

CONTACT: Becky Noggle

EXT:

MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute the City of Sanford, Seminole County and Seminole County School Board Wholesale Water, Wastewater and Reclaim Water Service Agreement.

District 5 Brenda Carey

Bob Briggs (ext 2148)

BACKGROUND:

Seminole County, City of Sanford and the Seminole County School Board wish to mutually cooperate in provision of water and wastewater service capacity to County and reclaim water capacity to Seminole County School Board.

County wishes to purchase potable water capacity and wastewater treatment and disposal capacity on a wholesale basis from Sanford to serve a proposed Seminole County School Board Alternative School. The County has identified the need of 4,485 gpd of water and wastewater capacity.

Agreement has been approved by both the City of Sanford and Seminole County School Board (awaiting return of originals). The fully executed original will be supplied to the Chairman's Office for signature.

STAFF RECOMMENDATION:

Staff recommends that the Board approve and authorize the Chairman to execute the City of Sanford, Seminole County and Seminole County School Board Wholesale Water, Wastewater and Reclaim Water Service Agreement.

ATTACHMENTS:

1. Agreement

Additionally Reviewed By:

☒ County Attorney Review (Susan Dietrich)

**CITY OF SANFORD, SEMINOLE COUNTY AND SEMINOLE COUNTY SCHOOL BOARD
WHOLESALE WATER, WASTEWATER AND RECLAIMED WATER SERVICE AGREEMENT**

THIS AGREEMENT is made and entered into this ____ day of _____, 2009, by and between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as "COUNTY", the **CITY OF SANFORD**, a Florida municipal corporation, whose mailing address is Post Office Box 1788, Sanford, Florida 32772-1788, hereinafter referred to as "SANFORD", and the **SEMINOLE COUNTY SCHOOL BOARD**, a body corporate, whose address is 400 East Lake Mary Boulevard, Sanford, Florida 32773-7127, hereinafter referred to as "SCSB".

W I T N E S S E T H:

WHEREAS, SANFORD owns and operates a potable water and wastewater system located in the jurisdictional boundaries of SANFORD and is desirous of selling, on a wholesale basis, potable water capacity and wastewater treatment and disposal capacity to COUNTY; and

WHEREAS, COUNTY wishes to purchase potable water capacity and wastewater treatment and disposal capacity on a wholesale basis from SANFORD to serve a proposed SCSB alternative school to be known for the purposes of this Agreement as "SCSB New Alternative School", hereinafter referred to as the "Property", as depicted in Exhibit "A", attached hereto and incorporated herein; and

WHEREAS, COUNTY has identified a need of 4,485 Gallons Per Day (GPD) daily flow for potable water capacity and 4,485 GPD average

daily flow for wastewater treatment and disposal capacity to serve the Property; and

WHEREAS, SANFORD owns and operates a reclaimed water system located in the jurisdictional boundaries of SANFORD and is desirous of providing retail reclaimed water service to the Property; and

WHEREAS, COUNTY, SANFORD and SCSB wish to mutually cooperate in provision of water and wastewater service capacity to COUNTY and reclaimed water capacity to SCSB subject to the terms and conditions of this Agreement,

NOW, THEREFORE, in consideration of the terms, provisions and mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do mutually agree as follows:

Section 1. Recitals. The foregoing recitals are true and correct and form a material part of this Agreement upon which the parties have relied.

Section 2. Definitions. The parties agree that in construing this Agreement, the following words, phrases and terms shall have the following meanings unless the context clearly indicates otherwise:

Agreement - this Wholesale Water, Wastewater and Reclaimed Water Agreement as it may from time to time be modified.


Collection Facilities - the lines, pipes, meters and all other appurtenant equipment owned, operated and maintained by COUNTY used to collect wastewater from the Property and transmit same to the SANFORD wastewater system at the point of connection master meter as depicted in Exhibit "A".

Distribution Facilities - those lines, pipes, meters and all other appurtenant equipment and facilities owned, operated and maintained by COUNTY used to transmit and distribute potable water to the Property from the SANFORD water system at the point of connection master meter as depicted in Exhibit "A".

GPD - gallons per day, average annual basis.

Potable Master Meters - existing master meters owned, operated and maintained by SANFORD and located at the northwest corner of the intersection of Casa Verde Road and State Road 46A and at the northwest corner of Old Lake Mary Road and Airport Boulevard.

Reclaimed Water - means wastewater effluent that has been appropriately treated and is usable for irrigation purposes in residential, common and green areas of development.

Reclaimed Water Capacity  - the amount of reclaimed water flow, measured in GPD, which SCSB agrees to buy from SANFORD and which SANFORD agrees to deliver in accordance with the provisions set forth in a separate Reclaimed Water Agreement between SCSB and SANFORD and other SANFORD requirements.

Residential Wastewater Strength - residential and commercial wastewater discharged exhibiting the following characteristics: biochemical oxygen demand of 300 mg/1 or less, suspended solids of 300 mg/1 or less and a pH between 6.5 and 8.0. Prohibited discharges include constituents that could cause a fire or explosion, solid or viscous substances which could obstruct flow or interfere with the system, or discharges containing any toxic pollutants. COUNTY shall

require grease traps and industrial pretreatment of its customers as applicable and in accordance with Federal, State and local guidelines.

Water Connection Fees - those fees and charges established by SANFORD for the COUNTY utility system and paid to SANFORD for water service capacity sold pursuant to this Agreement.

Water Service Capacity - the amount of water flow, measured in GPD, which COUNTY agrees to buy from SANFORD and which SANFORD agrees to deliver in accordance with this Agreement.

Wastewater Connection Fees - those fees and charges established by SANFORD for the COUNTY utility system and paid to SANFORD for wastewater service capacity sold pursuant to this Agreement.

Wastewater Service Capacity - the amount of wastewater flow, measured in GPD, which COUNTY agrees to buy from SANFORD and which SANFORD agrees to accept at its wastewater transmission system in accordance with this Agreement.

Water Transmission Facilities - lines, pipes, meters and all other appurtenant equipment and facilities.

Wastewater Transmission Facilities - lift stations, force mains, pumps, meters and all other appurtenant equipment and facilities.

Section 3. Purpose. Subject to the terms and conditions hereinafter set forth:

(a) SANFORD shall sell and deliver to COUNTY and COUNTY shall purchase and receive from SANFORD Water and Wastewater Service Capacity of 4485 GPD and 4485 GPD.

(b) SANFORD shall sell and deliver Reclaimed Water Capacity to SCSB and SCSB shall purchase and receive Reclaimed Water Capacity from SANFORD.

Section 4. Term. This Agreement shall continue in full force and effect from the complete execution hereof and thereafter for twenty-five (25) years; provided, further, that this Agreement shall be automatically extended for successive ten (10) year periods.

Section 5. Provision of Water Service Capacity.

(a) Provision of Water Service Capacity by SANFORD. SANFORD shall provide Water Service Capacity to COUNTY in the following manner and subject to the following terms and conditions:

(1) SANFORD grants and allocates to COUNTY an option to purchase up to 4485 GPD of Water Service Capacity for service to the Property pursuant to this Agreement. Nothing herein shall be construed to supersede or create a greater obligation on the COUNTY than the terms of the City of Sanford/Seminole County Urban Service Area and Utility Service Planning Area Amended Agreement dated December 13, 1993. This Agreement remains in full force and effect.

(2) Connection to SANFORD Water Distribution Facilities. COUNTY shall cause to be designed, permitted and constructed such Distribution Facilities ("COUNTY Facilities") as may be needed for connection to SANFORD Water Distribution Facilities ("SANFORD Facilities") at no cost to SANFORD. COUNTY shall cause the appropriate Water Distribution Facilities to be constructed to meet the minimum fire flow calculations needed to serve the proposed Property. Any improvements to the Water Distribution Facilities needed to meet

future fire flow needs for this Property which may include, but not be limited to, the installation of a third master meter and water line looping, shall be constructed by the SCSB at no cost to either the COUNTY or SANFORD. Operation, maintenance and replacement of all pipes, fittings, valves and appurtenances of SANFORD Facilities up to the point of connection to the COUNTY Facilities shall be the responsibility of SANFORD. SANFORD shall have the right to review and approve the connection to its Water Distribution Facilities.

(3) Operation and Maintenance of COUNTY Distribution Facilities. COUNTY shall be responsible for the operation, maintenance and replacement of Distribution Facilities used to transmit and distribute potable water to the Property up to the point of connection to the SANFORD Facilities. The point of connection between COUNTY and SANFORD is conceptually depicted on Exhibit "A". Each party shall be responsible for service interruptions due to relocation of their facilities.

(4) Metering.

(A) SANFORD has furnished master metering equipment at the connection points identified on Exhibit "A" capable of measuring all flow from SANFORD Facilities to COUNTY Facilities. The master metering equipment is the property of SANFORD and SANFORD is responsible for the operation, maintenance and replacement of the master metering equipment. COUNTY has the right to read the master meters at any time and the right of free access thereto for testing purposes.

(B) The master metering equipment is of standard make and type, installed at a readily accessible location and recording flow with an error rate not exceeding plus or minus two percent (2%) of full scale reading and suitable for billing purposes. In calculating any billing adjustment, it shall be assumed that any master metering equipment inaccuracy existed for one-half (1/2) of the entire time interval between master metering equipment accuracy checks by either party. Billing is made at the rate established in accordance with Section 9 herein, but in the event of master metering equipment and inaccuracy, the volume used in the billing calculations shall be adjusted as described in this Agreement.

(C) SANFORD, at its expense, shall periodically inspect and test the master meters at intervals not exceeding twelve (12) months unless otherwise requested by COUNTY. Written results of meter inspections shall be provided to COUNTY.

(5) Water Service Capacity. The parties agree that SANFORD shall continuously provide to COUNTY, in accordance with this Agreement, Water Service Capacity in a manner conforming with all applicable regulatory requirements; provided, however, SANFORD's obligation shall be consistent with and not greater than SANFORD's obligation to provide Water Service Capacity to the public generally.

Section 6. Provision of Wastewater Service Capacity. SANFORD shall provide Wastewater Service Capacity to COUNTY in the following manner and subject to the following terms and conditions:

(a) Capacity Purchase. COUNTY has identified, and subject to the terms and conditions hereinafter set forth, SANFORD has agreed to

immediately provide to COUNTY an option to purchase up to 4485 GPD of Wastewater Service Capacity for service to the Property pursuant to this Agreement. Nothing herein shall be construed to supersede or create a greater obligation than the terms of the City of Sanford/Seminole County Urban Service Area and Utility Service Planning Area Amended Agreement dated December 13, 1993. This Agreement remains in full force and effect.

(b) Connection to SANFORD Wastewater Transmission Facilities.

COUNTY shall cause to be designed, permitted and constructed such Collection and Wastewater Transmission Facilities ("COUNTY Facilities") as may be needed for connection to SANFORD Collection and Wastewater Transmission Facilities ("SANFORD Facilities") at no cost to SANFORD. Operation, maintenance and replacement of all pipes, fittings, valves, lift stations and appurtenances of SANFORD Facilities up to the point of connection to COUNTY Facilities shall be the responsibility of SANFORD. SANFORD shall have the right to review and approve the connection to its Wastewater Transmission Facilities.

(c) Operation and Maintenance of COUNTY Collection and Wastewater Transmission Facilities. COUNTY shall be responsible for the operation, maintenance and replacement of the Collection and Wastewater Transmission Facilities used to collect and transmit wastewater from the Property up to the point of connection to SANFORD Facilities. The point of connection is conceptually depicted on Exhibit "A". Each party shall be responsible for service interruptions due to relocation of their facilities.

(d) Metering Not Required. For billing purposes, charges for wastewater flow shall be calculated based upon one hundred percent (100%) of potable water flows as measured by the water master metering equipment pursuant to Section 5(a)(4) of this Agreement. Billing shall be made at the rate established in accordance with Section 9 herein, but in the event of master metering equipment and inaccuracy, the volume used in the billing calculations shall be adjusted as described in this Agreement.

(e) Wastewater Service Capacity. The parties agree that SANFORD shall continuously provide to COUNTY, in accordance with this Agreement, Wastewater Service Capacity in a manner conforming with all applicable regulatory requirements; provided, however, SANFORD's obligation shall be consistent with and not greater than SANFORD's obligation to provide Wastewater Service Capacity to the public generally.

Section 7. Payment of Water Connection Fees. COUNTY shall not pay Water Connection Fees for this Property to SANFORD pursuant to Seminole County Code Sec. 270.189(a).

Section 8. Payment of Wastewater Connection Fees. COUNTY shall not pay Wastewater Connection Fees for this Property to SANFORD pursuant to Seminole County Code Sec. 270.189(a).

Section 9. Wholesale Water and Wastewater User Charges. SANFORD shall provide Water and Wastewater Service to the COUNTY at the following rates:

(a) Water user charge of \$1.48 per 1,000 gallons for the first 480,000 gallons;

(b) Water user charge of \$2.03 per 1,000 gallons for use between 480,001 and 960,000 gallons;

(c) Water user charge of \$2.74 per 1,000 gallons for use between 960,001 gallons and 1,920,000 gallons; and

(d) Water user charge of \$4.20 per 1,000 gallons for use over 1,920,000 gallons; and

(e) Wastewater user charge of \$4.42 per 1,000 gallons flat rate.

SANFORD shall bill COUNTY monthly for water charges based upon the number of gallons of water which pass through the water master meters each month and for wastewater charges as set forth in Section 6(d) herein. COUNTY shall make payment to SANFORD within thirty (30) days from the date of SANFORD's billing to COUNTY. Failure to timely remit payment shall be considered a default by COUNTY and SANFORD may proceed as provided in Section 15 herein.

Section 10. Change of Rates.

(a) In the event SANFORD, during this Agreement, proposes any new rate schedule or amended rate schedule applicable to retail and wholesale water and wastewater service, SANFORD shall forward to COUNTY a copy of such rate schedule or amended rate schedule at least thirty (30) calendar days prior to the effective date thereof and substitute such rate schedule for the rate schedule set forth in Section 9 hereunder for retail and wholesale water and wastewater service commencing with the next billing period after the effective date.


(b) If SANFORD adjusts its retail and wholesale water user charge:

(1) the user charge shall be adjusted by the same cost per 1,000 gallons unit cost adjustment as applied to the retail user charge within SANFORD; and

(2) a fixed base charge, reserving availability of service, consistent with the rate charged to a meter of equivalent size within SANFORD shall be charged by SANFORD.

(c) If SANFORD adjusts its retail and wholesale wastewater user charge:

(1) the user charge shall be adjusted by the same cost per 1,000 gallons unit cost adjustment as applied to the retail user charge within SANFORD; and

(2) a fixed base  charge, reserving availability of service, consistent with the rate charged to a meter of equivalent size within SANFORD shall be charged by SANFORD.


(d) SANFORD hereby declares that the current rates are not in excess of the lower rates now available to any prospective customer under wholesale water or wastewater service and agrees that during this Agreement, COUNTY shall continue to be billed at the lowest available rate for equivalent wholesale water or wastewater service.

Section 11. Provision of Reclaimed Water Service.

(a) SANFORD agrees that SCSB shall only be required to take back and dispose of Reclaimed Water on-site. Consistent with the foregoing, SANFORD and SCSB agree that Reclaimed Water take back shall be required to be disposed of on previously approved green spaces on

the Property. SCSB agrees to comply with SANFORD's take-back requirements regarding equal volume of reclaimed water and wastewater disposal.

(b) SCSB agrees to design and install its on-site irrigation system so as to enable a connection to SANFORD's Reclaimed Water system at the Property's main entrance on Old Lake Mary Road. SANFORD agrees that the Reclaimed Water shall be of a quality consistent with Chapter 17-6, Florida Administrative Code, or its successor provision and applicable Federal and State laws and regulations.

(c) SCSB and SANFORD hereby acknowledge and agree that COUNTY shall have neither an obligation to deliver Reclaimed Water to the Property nor a duty or obligation to review the design, permitting, construction, installation, repair, or maintenance of the Reclaimed Water system or appurtenant  infrastructure associated with the Reclaimed Water system.

Section 12. Disclaimer of Third Party Beneficiaries. This Agreement is solely for the benefit of the formal parties herein, and no right or cause of action shall accrue under or by reason hereof to or for the benefit of any third party not a formal party hereto.

Section 13. Service Interruptions. Each party shall make all reasonable efforts to prevent interruptions of service. Upon interruption of service, each party shall endeavor to re-establish service with the shortest possible delay consistent with safety to its customers and the general public.

Section 14. Assignment. This Agreement shall be binding on the parties hereto and their representatives and successors. None of the parties hereto shall assign this Agreement to any other party.

Section 15. Default.


(a) Any party to this Agreement, in the event of an act of default by the others, shall have all remedies available to it pursuant to the laws of the State of Florida, including, but not limited to, injunction to prevent default or specific performance to enforce this Agreement subject to State law.

(b) Any of the parties herein shall give the other parties written notice of any defaults hereunder; allow the defaulting party thirty (30) days from the date of receipt to cure such defaults; and as to the COUNTY and SANFORD, otherwise comply with any State law to resolve disputes between local governments.

(c) In the event of a default by COUNTY, SANFORD agrees that it shall not discontinue service to COUNTY provided all payments for service required hereunder are made by COUNTY, and until such time as a court of competent jurisdiction has rendered an adjudication of default. In the event COUNTY disputes amounts payable for service pursuant to this Agreement, COUNTY shall continue to make such payments but may make such payments under protest. In the event of default by SANFORD, COUNTY shall be entitled to any and all remedies available to customers of the SANFORD water system.

Section 16. Indemnity. Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions arising out of this Agreement of that party and the

officers, employees and agents thereof. The parties further agree that nothing contained herein shall be construed or interpreted as denying to either COUNTY, SANFORD, or SCSB any remedy or defense available to such parties under the laws of the State of Florida, nor as a waiver of sovereign immunity beyond the waiver provided for in Section 768.28, Florida Statutes. The waiver of a provision herein by either COUNTY, SANFORD, or SCSB shall not constitute the further waiver of said provision or the waiver of any other provision.

Section 17. Notices. Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered when either (1) hand delivered to the official hereinafter designated, or (2) upon receipt of such notice when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the designated official  at the address set forth opposite the party's name below, or to such other official or address as the party shall have specified by written notice to the other party delivered in accordance herewith.

For SANFORD: City Manager
City of Sanford
P.O. Box 1788
Sanford, FL 32772-1788

With a copy to: Utility Director
City of Sanford
P.O. Box 1788
Sanford, FL 32772-1788

For COUNTY: Seminole County
Seminole County Services Building
1101 E. First Street
Sanford, FL 32771


With a copy to: Director of Environmental Services
500 W. Lake Mary Boulevard
Sanford, FL 32773

For SCSB:

Seminole County School Board
Cindy Jordan - Project Coordinator
400 E. Lake Mary Boulevard
Sanford, FL 32773

Section 18. Severability. If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained herein are not materially prejudiced, and if the intentions of the parties can continue to be effected. To that end, this Agreement is declared severable.

Section 19. Time is of the Essence. Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Agreement.

Section 20. Applicable Law.  This Agreement and the provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida.

Section 21. Annexation Laws. Notwithstanding anything to the contrary contained herein, this Agreement shall not be construed or interpreted to the Municipal Annexation and Contraction Act, Chapter 171, Florida Statutes, as amended from time to time, nor shall anything herein be construed to contract away the COUNTY's right to challenge any annexation in accordance with the laws of the State of Florida.

Section 22. Entire Agreement/Effect on Prior Agreement. This instrument constitutes the entire agreement between the parties and supersedes all previous discussions, understandings and agreements

between the parties relating to the subject matter of this Agreement. Amendments to and waivers of the provisions herein shall be made by the parties in writing by formal amendment.

IN WITNESS WHEREOF, the parties hereto have hereunder executed this Agreement on the date and year first above written.

ATTEST:

CITY OF SANFORD

JANET DOUGHERTY, City Clerk

By: _____
LINDA KUHN, Mayor

Date: _____

STATE OF FLORIDA)

COUNTY OF SEMINOLE)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared LINDA KUHN and JANET DOUGHERTY, who are known to me/proved to my satisfaction that they are the Mayor and City Clerk, respectively of the City of Sanford, a Florida municipal corporation. They acknowledged before me that they executed the foregoing instrument as such officers in the name and on behalf of the City of Sanford.

EXECUTED and sealed in the County and State named above this _____ day of _____, 20____.

Print Name _____
Notary Public in and for the County
and State Aforementioned
My commission expires: _____

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ATTEST:

SEMINOLE COUNTY SCHOOL BOARD

WILLIAM VOGEL, Ed.D.
Superintendent

By: _____
DEDE SCHAFFNER, Chairman

Date: _____

STATE OF FLORIDA)

COUNTY OF SEMINOLE)

I **HEREBY CERTIFY** that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared DEDE SCHAFFNER and WILLIAM VOGEL, who are known to me/proved to my satisfaction that they are the Chairman and Superintendent, respectively of the Seminole County School Board, a corporation organized under the laws of Florida. They acknowledged before me that they executed the foregoing instrument as such officers in the name and on behalf of the Seminole County School Board.

EXECUTED and sealed in the County and State named above this _____ day of _____, 20____.



Print Name _____
Notary Public in and for the County
and State Aforementioned
My commission expires: _____

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ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
BOB DALLARI, Chairman

Date: _____

For the use and reliance
of Seminole County only.
Approved as to form and
legal sufficiency.

As authorized for execution by the Board
of County Commissioners at its _____,
20____, regular meeting.

County Attorney

SED/dre

9/24/09

Attachment:

Exhibit "A"-Depiction of the SCSB New Alternative School Property

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Exhibit A

